

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

SELENA DUNSON,

Plaintiff,

:

Case No. 3:10-cv-441

-vs-

Magistrate Judge Michael R. Merz

:

HOOVEN-DAYTON CORP,

Defendant.

**DECISION AND ORDER DENYING PLAINTIFF'S MOTIONS TO INCLUDE
PLAINTIFF'S EXPERT WITNESSES**

This case is before the Court on Plaintiff's Motion to Include Plaintiff's Expert Witnesses (Doc. No. 39). Plaintiff claims she became mixed up on deadlines because of working and going to school, but did include a list of expert witnesses in her response to Defendant's request for production of documents. *Id.* at PageID 588. The Motion does not include a list of expert witnesses or any other information about them.

The Scheduling Order set November 1, 2011, as the date for both parties to disclose their expert witnesses "and to provide a copy of the expert's report (Rule 26(a)(2)(B)) or the subject matter and summary of facts and opinions for experts not required to prepare reports (Rule 26(a)(2)(C))." (Doc. No. 19, ¶ 5, PageID 56.)

Defendant's counsel advised the Court on November 30, 2011, that they had received a list of Plaintiff's proposed experts on November 28, 2011, as part of her response to their request for production of documents (Motion, Doc. No. 25). Because the disclosure was untimely and not accompanied by the required reports, Defendant moved to exclude those experts. *Id.* Plaintiff never

opposed that Motion within the time allowed by S. D. Ohio Civ. R. 7.2 and the Magistrate Judge granted it on December 31, 2011 (Notation Order).

Plaintiff's current Motion was filed two months later on the date of the discovery cut-off, thus precluding Defendant from deposing any of Plaintiff's experts without a substantial extension of the discovery period, which Plaintiff has not requested. More importantly, the Motion is still not accompanied by any reports from these experts, either of the more formal sort required by Fed. R. Civ. P. 26(a)(2)(B) or the less complete reports required from treating health care sources.¹

Because Plaintiff has still not complied with the rules for disclosing expert witnesses, her Motion is denied.

March 1, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge

¹From the list, it appears that Plaintiff's proposed experts are health care providers.